

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JOYCE POWELL,

Petitioner,

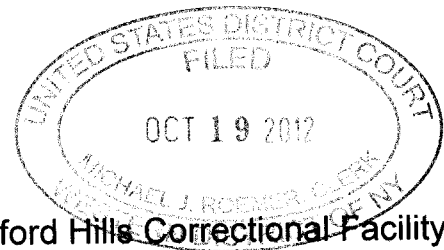
-v-

SUPERINTENDENT SABINA KAPLAN,

Respondent.

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**DECISION AND ORDER**  
**12-CV-0954M**



Petitioner Joyce Powell, an inmate of the Bedford Hills Correctional Facility, seeks relief pursuant to 28 U.S.C. § 2254, alleging that her conviction in Supreme Court, Monroe County, State of New York, was unconstitutionally obtained, as set forth more precisely in the petition. This petition had been filed initially in the United States District Court for the Southern District of New York on September 10, 2012, and later transferred to this District. The petition was signed by Powell on September 4, 2012, and by another person, Andrew Stankevich, who is not a licensed attorney, on August 31, 2012.

A prior and nearly identical petition had been filed in the Southern District of New York on Powell's behalf by Stankevich. The Southern District had transferred that petition to this District (*Powell v. Kaplan*, 12-CV-0882M), and on October 10, 2012, this Court dismissed the petition on the basis that Mr. Stankevich could not file a petition on behalf of Powell. Unlike the instant petition, Powell had not signed the

prior petition. (12-CV-0882M, Docket No. 4.) Mr. Stankevich is cautioned that he cannot file or sign any papers on Powell's behalf nor attempt to represent her or act on her behalf in any manner in this proceeding. Accordingly,

IT HEREBY IS ORDERED as follows:

1. Respondent shall file and serve an **answer** to the petition, in accordance with Rules 4 and 5 of the Rules Governing Section 2254 Cases in the United States District Courts, no later than **December 5, 2012**. Further, the answer shall state whether a trial or any pre-trial or post-trial evidentiary proceeding was conducted. If any such proceeding was conducted, under the authority of Rule 4, the Court hereby directs respondent to provide to the Court the transcript of the proceeding, together with any record(s) of, and documents relating to, such proceeding, and such documents will be filed in the official record of this case.

Respondent also shall file and serve by the above date a **memorandum of law** addressing each of the issues raised in the petition and including citations of relevant supporting authority.

Within thirty (30) days of the date this order is served upon the custodian of the records, the Clerk of Court or any other official having custody of the records of the proceedings in Supreme Court at issue now before this Court shall submit such records to respondent or the respondent's duly authorized representative.

If petitioner appealed from the judgment of conviction or from an adverse judgment or order in a post-conviction proceeding, under the authority of Rule 4, the Court hereby directs respondent to provide to the Court a copy of the briefs and record on appeal and the opinions of the appellate courts, if any, and such documents will be filed in the official record of this case.

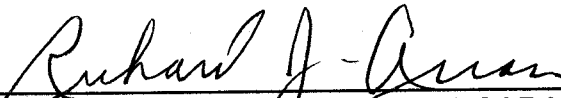
Petitioner shall have thirty (30) days upon receipt of the answer to file a written response to the answer and memorandum of law.

Within thirty (30) days of the date this order is filed with the Clerk of Court, respondent may file a motion for a more definite statement or a motion to dismiss the petition, accompanied by appropriate exhibits which demonstrate that an answer to the petition is unnecessary. The timely filing of such motion shall extend the time for filing an answer for fourteen (14) days, but the failure of the Court to act upon the motion within that time shall not further extend the time for filing an answer.

2. The Clerk of Court shall serve a copy of the petition, together with a copy of this order, by certified mail, upon respondent Superintendent of Bedford Hills Correctional Facility Correctional Facility and upon Office of the Attorney General, Federal Habeas Unit, 120 Broadway, 12<sup>th</sup> Floor, New York, New York 10271-0332. To advise appropriate Monroe County officials of the pendency of this proceeding, the Clerk of Court shall also mail a copy of this order to the District Attorney of Monroe County.

PETITIONER MUST FORWARD A COPY OF ALL FUTURE PAPERS AND  
CORRESPONDENCE TO THE ATTORNEY APPEARING FOR RESPONDENT.

IT IS SO ORDERED.

A handwritten signature in cursive script, reading "Richard J. Arcara", is written over a horizontal line.

HONORABLE RICHARD J. ARCARA  
DISTRICT JUDGE  
UNITED STATES DISTRICT COURT

Dated: Oct. 18, 2012